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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,026	11/03/2003	Angel L. Carrillo	T-671-B	3421

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EXAMINER

DODSON, SHELLEY A

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,026

Applicant(s)

CARRILLO ET AL.

Examiner

SHELLEY A. DODSON

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 1-21 are pending in this application filed November 03, 2003.

Applicant's claims are directed toward aluminum-zirconium antiperspirant salts with low M:Cl ratio.

Claim Rejections - 35 USC § 102

1.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2.

Claims 1-14 and 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Chopra et al. USP 6,375,937 B1.

Chopra et al. disclose antiperspirant salts for enhanced cosmetic products and the process of making the same. In column 2, Chopra further discloses that the referenced aluminum zirconium tetrachlorohydrate glycine salts have a metal to chloride ratio in the range of 0.9 to 1.2 to 1.00. In column 2, Chopra further discloses that the referenced aluminum-zirconium tetrachlorohydrate meets the claimed limitations of the formula claimed by applicant. Further Chopra discloses that the glycine is in particulate or powdered form. HPLC reveals that the aluminum is contained in peaks 1, 2, 3, 4 and 5. Applicant's recitation that aluminum is found in at least four successive peaks labeled peaks 2 to 5 with substantially all of the aluminum found at peaks 3, 4 and 5 meets this limitation. Chopra discloses that silicone is a carrier in the referenced composition. In column 5, Chopra further discloses that the antiperspirant composition may take many different forms such as liquid, lotion, cream, gel, semi-solid and solid stick.

Chopra discloses each and every aspect of the invention as claimed by the applicant in the instant invention.

Claim Rejections - 35 USC § 103

3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chopra et al. USP 6,375,937 B1 in view of Herb et al. USP 5,534,246.

Chopra et al. disclose antiperspirant salts for enhanced

cosmetic products and the process of making the same. In column 2, Chopra further discloses that the referenced aluminum zirconium tetrachlorohydrate glycine salts have a metal to chloride ratio in the range of 0.9 to 1.2 to 1.00. In column 2, Chopra further discloses that the referenced aluminum-zirconium tetrachlorohydrate meets the claimed limitations of the formula claimed by applicant. Further Chopra discloses that the glycine is in particulate or powdered form. HPLC reveals that the aluminum is contained in peaks 1, 2, 3, 4 and 5. Applicant's recitation that aluminum is found in at least four successive peaks labeled peaks 2 to 5 with substantially all of the aluminum found at peaks 3, 4 and 5 meets this limitation. Chopra discloses that silicone is a carrier in the referenced composition. In column 5, Chopra further discloses that the antiperspirant composition may take many different forms such as liquid, lotion, cream, gel, semi-solid and solid stick. Chopra discloses each and every aspect of the invention as claimed by the applicant in the instant invention with the exception of the clear antiperspirant gel composition being in the form of an oil-in-water emulsion.

Herb et al disclose roll-on or gel antiperspirant compositions comprising aluminum-zirconium tetrachlorohydrate glycine complexes. Note claim 8. In claim 1, Herb further discloses that said antiperspirant compositions are water-in oil emulsions. It would have been obvious to one of ordinary skill in this art at the time

the invention was made to have made the antiperspirant compositions of Chopra into oil-in-water emulsions in view of the teachings of both references that aluminum-zirconium antiperspirant compositions may take many different forms depending on the desired end-product.

5.

The Examiner acknowledges receipt and approval of terminal disclaimers filed 03/29/2004 over USP 6,649,152 and USP 6,436,381.

6.

The Examiner further acknowledges Ex Parte Reexamination Certificate US 6,375,937 C1 issued on September 14, 2004.

Information Disclosure Statement

7.

The information disclosure statement (IDS) submitted on September 30, 2004 was noted and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has

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considered the information disclosure statement and made it of record.

Telephone Inquiries

8.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley A. Dodson whose telephone number is (571) 272-0612 and fax number (571) 273-0612. The examiner can normally be reached on Monday-Thursday from 7:30 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached at (571) 272-0887.

9.

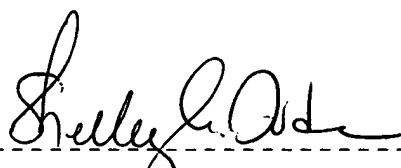
The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. This new location should be used in all instances when faxing any

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correspondence numbers to Group 1600. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shelley A. Dodson
Primary Examiner
Art Unit 1616

April 7, 2005